

**United Services Automobile Association  
9800 Fredericksburg Road  
San Antonio, Texas 78288**

**NAIC COMPANY 25941**

**MARKET CONDUCT EXAMINATION REPORT  
as of December 31, 2003**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**PREPARED BY INDEPENDENT CONTRACTORS FOR  
COLORADO DEPARTMENT OF REGULATORY AGENCIES  
DIVISION OF INSURANCE**

**United Services Automobile Association  
9800 Fredericksburg Road  
San Antonio, Texas**

**MARKET CONDUCT  
EXAMINATION REPORT  
as of  
December 31, 2003**

**Prepared by**

**Gary L. Domer, CIE**

**James H. Daughan, CPCU, CIE, AIM**

**Independent Contract Examiners**

July 23, 2004

The Honorable Doug Dean  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Dean:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., an examination of selected underwriting and rating practices of the United Services Automobile Association's private passenger automobile business has been conducted. The Company's records were examined at the Home Office located at 9800 Fredericksburg Road, San Antonio, Texas 78288. The examination covered a six-month period from July 1, 2003, to December 31, 2003.

A report of the examination of the United Services Automobile Association is, herewith, respectfully submitted.

Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE, AIM

Independent Market Conduct Examiners

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EXAMINATION REPORT  
OF  
United Services Automobile Association**

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**COMPANY PROFILE****UNITED SERVICES AUTOMOBILE ASSOCIATION (USAA)**

United Services Automobile Association (USAA) is organized as a reciprocal inter-insurance exchange. It began doing business in June, 1922 as the “United States Army Automobile Insurance Association” with offices at Kelly Field, Texas. USAA is licensed in all states, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

Subscribers of the exchange (members) are limited to active and former commissioned, non-commissioned and warrant officers of the regular forces and reserve components of the United States Armed Services and a group, including employees, set out in the bylaws.

USAA has no agency force except as required by law. Operations are conducted by mail and telephone with policyholders on a direct basis from the Home and Regional Offices. A regional office is maintained in Colorado Springs, Colorado. USAA was first licensed in Colorado on October 14, 1964, and is currently licensed to transact business in the State of Colorado as a multiple line insurer.

As of December 31, 2003, USAA had 57,654\* Private Passenger Automobile policies in force in Colorado. Additionally, USAA reported \$101,721,000\*\* in private passenger automobile written premium in Colorado as of December 31, 2003. This represented a 3.51%\*\* market share of all private passenger automobile insurance written in Colorado.

\*Data as reported by the Company

\*\*Data as reported in the Colorado Insurance Industry Statistical report

### **PURPOSE AND SCOPE OF EXAMINATION**

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report

The examination was governed by, and was performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered six months of the Company's operations, from July 1, 2003, to December 31, 2003.

File sampling was based on a review of underwriting and rating files systematically selected from file runs provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any findings were noted on a comment form and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond and was requested to agree, disagree or otherwise justify the Company's noted action.

The examination report is a report by exception and much of the material reviewed is not addressed in the written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines. When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following three (3) areas of Company operations:

1. Company Operations and Management
2. Complaint Handling
3. Underwriting and Rating

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's Private Passenger Automobile underwriting and rating practices to determine compliance with the Colorado insurance law.

**Exhibit 1**

<b>Law</b>	<b>Subject</b>
Section 10-1-205	Financial Examination Reports
Section 10-1-203	Authority, scope, and scheduling of examinations
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-3-1106	Power of Commissioner
Section 10-3-1107	Hearings
Section 10-3-1108	Orders
Section 10-3-1109	Penalty for violation of cease and desist orders
Section 10-4-401	Purpose-applicability
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-618	Unfair or discriminatory trade practices-legislative declaration
Section 10-4-619	Coverage compulsory
Section 10-4-620	Required Coverage
Section 10-4-621	Required Coverages are minimum
Section 10-4-622	Required provision for intrastate and interstate operation
Section 10-4-623	Conditions and exclusions
Section 10-4-624	Self-insurers
Section 10-4-625	Quarterly premium payments
Section 10-4-626	Prohibited reasons for non-renewal or refusal to write a policy
Section 10-4-627	Discriminatory standards-premiums-surcharges-proof of financial resp.
Section 10-4-628	Refusal to write-changes in-cancellation-non-renewal of policies
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-631	Insurers to file rate schedule
Section 10-4-632	Reduction in rates for drivers 55 years or older/drivers ed course
Section 10-4-633	Certification of policy and notice forms



Regulation 1-1-6	Certification of forms
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8.	Penalties And Timelines Concerning Division Inquires and Document Requests
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Ins. Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 5-2-12	Concerning Automobile Consumer Protections
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.

### **Company Operations and Management**

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, forms certification, and timely cooperation with the examination process.

### **Complaints**

The examiners reviewed and compared the complaint log maintained by the Division of Insurance against the Company's complaint log to verify the accuracy of the Company's tracking system. The examiners also evaluated the Company's complaint handling methodology and reviewed the reason for and disposition of complaints.

### **Contract Forms and Endorsements**

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

Title	Form	Edition	
		Date	#
Named Non-owner Coverage	AO63CO	10-98	02
Extended Non-Owned Coverage for Named Individual	AO70	05-88	02
Leased Autos - Additional Covered Person	AO72	08-97	03
Additional Covered Person Endorsement	AO73	08-97	03
Personal Corporation/Additional Interest Endorsement	AO74	08-97	03
APIP Endorsement	AO85	06-99	06
Amendment of Policy Provisions Colorado	A100CO	5-03	03
OPIP Endorsement	A107	10-98	04
Additional Covered Resident Endorsement	A132	01-98	02
Amendment of Policy Provisions	A400CW	01-02	01

Personal Injury Protection and Medical Payments Coverages	663CO	12-02	03
Auto Insurance in Colorado	999CO	05-03	03
Notice of Cancellation/Notice of Intent Not to Renew	1620	10-99	38
Notice of Cancellation/Notice of Intent Not to Renew	1620A	10-99	08
Notice of Cancellation/Notice of Intent Not to Renew	1620B	10-99	03
Notice of Reduction in Coverage	1621	11-98	02
Colorado Notice of Premium Increase	1621-A	7-02	
Colorado Notice of Premium Increase	1621-B	7-02	06
Colorado Auto Policy Summary Disclosure Form	3065	01-99	04
Colorado Auto Policy	51OOCO	10-98	07
Exclusion Named Driver	119CO	04-00	01

### **Underwriting**

The examiners reviewed Company procedures and practices for converting policies from PIP to tort liability, to verify compliance with Colorado Insurance laws and regulations. The review included specific samples of converted private passenger automobile policies.

### **New Business /Cancellations/Nonrenewals/Surcharges/Rejections/Renewals**

For the period under examination the examiners systematically selected the following underwriting samples to determine compliance with underwriting practices:

Review Lists	Population	Sample Size	Percentage to Population
New Business Issued	982	50	5%
Non-renewals	14	14	100%
Cancel for Cause <i>within</i> 59 Days	7	7	100%
Cancel Non Pay	272	50	18%
Surcharges	6410	100	.015%
Tort Conversions	2562	50	.019%
Renewals	55430	100	.001%

### **Rating**

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of new business policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

### **EXAMINATION REPORT SUMMARY**

The examination resulted in three (3) issues arising from the Company's apparent failure to comply with Colorado statutes and regulations that govern all property and casualty insurers operating in Colorado. These issues involved two (2) of the three (3) categories of Company operations examined as follows:

**Company Operations and Management:** In the area of company operations and management two (2) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be followed by the Company in the issuance, cancellation, and non-renewal of policies of insurance. It is recommended that the Company review operating and management practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations. The issues in this area are:

- Failure, in some cases, to offer a quarterly premium payment plan.
- Certification and use of some non-complying forms.

**Complaint Handling:** In the area of complaint handling no compliance issues are addressed in this report.

**Underwriting and Rating:** In the area of underwriting and rating, one (1) compliance issue is addressed in this report. This issue arose from Colorado statutory and regulatory requirements that must be complied with when policies are rated. It is recommended that the Company review its rating practices and procedures, and make the changes necessary to ensure future compliance with Colorado insurance law.

- Failure, in some cases, to properly rate policies.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance. Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.

**UNITED SERVICES AUTOMOBILE ASSOCIATION**

**PERTINENT FACTUAL FINDINGS**

**PRIVATE PASSENGER AUTO**

**PERTINENT FACTUAL FINDINGS**  
**OPERATIONS AND MANAGEMENT**

**Issue A: Failure, in some cases, to offer a quarterly premium payment plan.**

Section 10-4-625, C.R.S. Quarterly premium payments, effective July 1, 2003, provides:

The commissioner shall issue rules establishing quarterly, semiannual, and annual premium payments for persons who are required to purchase insurance under this part 6. An insurer providing a plan for payments on a basis that is more frequent than quarterly need not also provide a quarterly payment plan. An insurer's plan for payments may provide for payments of an advance deposit premium.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated by the Commissioner of Insurance under the authority of Section 10-1-109, C.R.S., provides, in part:

Section 5 Rules

A. Installment Premium Payments

1. Each insurer continuing private passenger motor vehicle insurance coverage in conformity with the Colorado Automobile Reparations Act *shall offer, for persons who are required to purchase insurance under Part 6 of Title 10, Article 4, C.R.S., a quarterly premium payment plan.* [Emphasis added.] An insurer, providing a plan for payments of premium on a basis that is more frequent than quarterly, need not also provide a quarterly payment plan.

An examination of the Company's billing procedures for policies cancelled for non-payment of premium, indicated that Colorado auto policyholders are to be offered at least a quarterly premium payment plan. However, an examination of files cancelled for non-payment of premium demonstrated that in some cases, insured's were notified that they may no longer be eligible for a quarterly premium payment plan. This notification was provided via a system-generated form letter that states, in part:

Based on your payment history, if another nonpayment cancellation notice occurs on your account or if your insurance is canceled for nonpayment of premium, we will place your account on the Pay In Full Payment plan.

When an account is placed on the Pay In Full payment plan, the full account balance is due with the next billing. The account balance continues to be billed in full for a period of two years.

If a notice of cancellation is issued while on the Pay In Full payment plan, we will extend the Pay In Full date for two years from the time of the notice of cancellation.

**Policies cancelled for non-payment**

Population	Sample Size	Number of Exceptions	Percentage to Sample
272	50	26	52%

An examination of fifty (50) policies, representing 18% of all policies cancelled for non-payment by the Company in Colorado from July 1, 2003 through December 31, 2003, showed twenty-six (26) exceptions (52% of the sample) in which the Company indicated it would not offer a quarterly premium payment plan under certain circumstances when offering to re-issue policies. Failure, in some cases, to offer a quarterly premium payment plan, may be a violation of Colorado Insurance law.

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**Recommendation #1:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-4-625, C.R.S., and Colorado Insurance Regulation 5-2-12. If the Company is unable to provide such documentation, it should be required to provide evidence that it has corrected its procedures to ensure that a quarterly premium payment plan is offered in compliance with Colorado insurance law.

**Issue B: Certification and use of some non-complying forms.**

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states, in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:
  - (u) Certifying pursuant to section 10-4-725 or issuing, soliciting, or using an automobile policy form, endorsement, or notice form that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in sections 10-3-1107, 10-3-1108, and 10-3-1109.

Colorado Insurance Regulation 5-2-12, Concerning Automobile Insurance Consumer Protections, promulgated by the Commissioner of Insurance under the authority of §§, 10-4-601.5, 10-4-625, 10-4-628(4), and 10-1-109, C.R.S., states, in part: ...

B. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions.

- b. Insurers proposing to cancel, nonrenew, increase premium or reduce cover age shall prominently display on the notice form, within or adjoining the paragraph entitled "Your Right to Protest," the following premium payment instructions:

*In order to continue your coverage during the period the proposed action is protested, you must continue to make payments according to your current premium payment plan until a decision is made by the hearing officer. You may contact your producer (agent) or the company at (phone number) for further information. Please note that the company may bill you later for any premium difference occurring if the company's action is upheld. This is the only notification you will receive to pay the premium due to continue coverage. If the premium is not paid prior to the effective date of the action listed on the notice, the coverage will lapse.*

It appears that the Company is not in compliance with Colorado insurance law in that forms 1621-A(06) Rev 7-02, Colorado Notice of Premium Increase and 1621-B(04) Rev 7-02, Colorado Notice of Premium Increase, were certified as being in compliance and were in general use by the Company during the period of the exam, but did not contain the above italicized provision as required by Colorado Insurance law.



**Recommendation #2:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-3-1104, C.R.S. and Colorado Insurance Regulation 5-2-12. If the Company is unable to provide such documentation, it should be required to provide evidence that it has corrected its procedures to ensure that all forms certified and used by the Company are in compliance with Colorado insurance law.

**PERTINENT FACTUAL FINDINGS**  
**UNDERWRITING AND RATING**

**Issue C: Failure, in some cases, to properly rate policies.**

Section 10-3-1104(1)(f)(II), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

- (1)(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable there under, or in any of the terms or conditions of such contract, or in any other manner whatever;

Colorado Insurance Regulation 5-1-10 (III)(B), Rate And Rule Filing Submissions Property And Casualty Insurance, promulgated by the Commissioner under the authority of 10-1-109, provides, in part:

Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the forgoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

The Company's Underwriting Guidelines-Colorado, USAA/CIC Household Tier Placement, revised 9/11/2002, states, in part:

**Tier Placement**

Within each company, a risk may be acceptable in one of three tiers. Placement in these tiers is dependent on the combination of risk characteristics reflected by the applicant.

According to the manual on file with the Colorado Division of Insurance, tier-rating factors apply to the following coverages:

Vehicle Type: All	2A	3A	3B
Bodily Injury	1.00	1.20	1.40
Uninsured Motorists	1.00	1.45	1.65
Med Pay & EBC 1	1.00	1.45	1.65
EBC 2-4	1.00	1.45	1.65
Property Damage	1.00	1.20	1.40
Comprehensive	1.00	1.00	1.20
Collision	1.00	1.20	1.40
ENOA	1.00	1.00	1.00
RR	1.00	1.00	1.00
T & L	1.00	1.00	1.00

**New Business Issued**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
982	50	4	8%

An examination of fifty (50) policies, representing 5% of all policies issued by the Company in Colorado from July 1, 2003 through December 31, 2003, showed four (4) exceptions (8% of the sample) wherein the Company failed to use tier factors filed with the Insurance Division when issuing policies in tiers 3-A and 3-B. The four (4) exceptions resulted because the company failed to apply tier-rating factors to rates for Medical Payments coverage. Failure to follow the rating plan filed with the Division of Insurance may be a violation of Colorado Insurance law.

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**Recommendation #3:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-3-1104, C.R.S., and Colorado Insurance Regulation 5-1-10. If the Company is unable to provide such documentation, it should be required to provide evidence that it has corrected its rating procedures to ensure compliance with Colorado insurance law.

**Market Conduct Examination****Summary of Issues/Recommendations Locator**

<b>ISSUE</b>	<b>Rec. No.</b>	<b>Page No.</b>
<b>OPERATIONS &amp; MANAGEMENT</b>		
Issue A: Failure, in some cases, to offer a quarterly premium payment plan.	1	15
Issue B: Certification and use of some non-complying forms.	2	17
<b>UNDERWRITING AND RATING</b>		
Issue C: Failure, in some cases, to properly rate policies.	3	20

Independent Market Conduct Examiners

Gary L. Domer, CIE

James H. Daughan, CPCU, CIE, AIM.

Participated in this examination and in the preparation of this report